

March 8, 2010

Karen Wessels,
Chairman and President
Pagosa Area Water & Sanitation District
P.O. Drawer 4610
100 Lyn Avenue
Pagosa Springs, Colorado 81157

Re: Annual Report Pursuant to Colorado Revised Statutes §32- 1-207(3)(c)

Dear Ms. Wessels:

On November 17, 2009 we sent you a letter which was published in the November 19, 2009 edition of *The Pagosa Springs Sun*. Our communication invited "...the PAWSD Board to discuss these issues (Mr. Al Bledsoe's findings and PAWSD's flawed assumptions) at a public forum at a date to be determined."

That same November 19, 2009 issue of *The Pagosa Springs Sun* contained an open letter from "PAWSD to BOCC" which concluded, "[w]e suggest a board-to-board meeting to discuss your concerns".

It seemed as if we were on our way to an open, transparent dialogue about our concerns over PAWSD operations, fiscal planning and the effect of those plans on County residents. We wished to have that meeting occur in a neutral forum, sufficient in size to allow the general public to attend. Unfortunately, PAWSD flatly refused to convene this meeting anywhere but its own office.

By email dated January 29, 2010 Commissioner Moomaw confirmed that we had agreed to acquiesce and meet PAWSD beginning at 6:00 p.m. on February 4, 2010.

As the time for the meeting approached, Ms. Wessels contacted a member of our board and explained that due to an emergency involving Ms. Chacey you would need to reschedule the meeting. We were dismayed that the absence of any one member could derail such an important and long sought after audience. However, in consideration of Ms. Wessels promise that if we would continue the meeting it would be reschedule to occur in a neutral forum. To our detriment, we relied on the representation of the PAWSD Chairman and the meeting was postponed.

PAWSD is not only breaching its agreement to meet in a neutral location but also, contrary to your own published letter, you are now refusing to even consider the suggestion of a board to board meeting. This is an unfortunate turn of events for PAWSD, for Archuleta County and most importantly, for our constituents.

Colorado Revised Statutes §32- 1-207(3)(c) provides, in part:

A board of county commissioners may request any special district located wholly or partially within the county's unincorporated area . . . to file, not more than once a year, a special district annual report. The annual report shall be filed with the board of county commissioners. . . . If a special district files an annual report pursuant to this paragraph (c), such report shall include but shall not be limited to information on the progress of the special district in the implementation of the service plan. The board of county commissioners . . . may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting.

Pursuant to C.R.S. Section 32-1-207(3)(c), the Board of County Commissioners of Archuleta County hereby demands that Pagosa Area Water & Sanitation District file an annual report. The report shall address information on the progress of the District in the implementation of its Service Plan (copy enclosed) and shall specifically address the following matters, namely:

1. According to the Appraisal Report to Evaluate Future Raw Water Demands and Water Supply Alternative Plans (Harris Water Engineering, March 2003), found on the PAWSD web site, the PAWSD and SJWCD Boards decided to "incorporate the concept of a Safety Supply Margin" into their planning. The Safety Supply Margin was determined by the Boards to be one years' water demand as forecast by PAWSD for the year 2040 or approximately, 12,000 acre feet. The Boards further determined that the one years' water demand storage should be in addition to current storage that at the time was near and is currently now over 4,000 acre feet. The report indicates that storage of 4,000 acre feet is adequate through 2040. The report also indicates that actions other than development of a large storage reservoir are available to PAWSD to deal with water needs. The decision by the Board of PAWSD to implement a storage policy that requires capital beyond that which would be required if facilities were developed to meet the requirements outlined in the 2003 study represents a material departure from the Service Plan and places an unreasonable financial burden on the community. A burden that was never approved by voters or anyone independent of the PAWSD and its Board. In addition, as outlined in item 3 below, the projections of the cost of a Dry Gulch Reservoir were grossly underestimated and thus misrepresented.

2. The acquisition of the land for the Dry Gulch Reservoir is outside the service territory approved in the District's Service Plan. This action was a material departure from the Service Plan that requires amendment to the Service Plan.
3. The projections of the cost of the Dry Gulch Reservoir have grown from \$21,863,000 estimated in the Harris Engineering March 2003 report for a 12,500 acre foot reservoir to \$66,330,000 plus \$24,000,000 or \$90,330,000 for a 35,000 acre foot reservoir estimated in the Harris Engineering Dry Gulch Reservoir Feasibility Study for the CWCB Loan Application dated August 2007 to \$150,840,000 for a 12,500 acre foot reservoir or \$186,670,000 for a 35,000 acre foot reservoir estimated in the Dry Gulch Reservoir and San Juan Diversion Projects Conceptual Level Opinion of Probable Costs prepared by MWH dated March 2009. The latest figure on the PAWSD website is for a 56,000 "project" as of May 4, 2010. The dramatic and material changes in the estimates of the cost of the Dry Gulch project over such a short period of time seem to indicate that the District does not have the processes and/or personnel capable of developing or overseeing the development of reasonable cost estimates for planning major projects.
4. The information in the feasibility study used in connection with the application for loan from the CWCB was not updated at the time of the funding of the debt. It appears that the District was in possession of information that there had been material changes in the projections included in the study.
5. PAWSD residential water rates doubled from 2003 to 2008 from \$50.60 to \$100.60 for 12,000 gal monthly usage. Pagosa's water rate for 12,000 gal of residential usage of \$100.60 almost three times Durango's rate of \$35.54 for 12,000 gallons usage. What are water rates projected to be in 2015 and 2020? Please provide forecasts that support these projections. The PAWSD has already spent over \$11 million for land in anticipation of the construction of the Dry Gulch Reservoir. The debt instruments issued in connection with the borrowing that was used to finance the land purchase indicates that the loans would be repaid with capital investment fees (CIF) or if those are not adequate, through increased water rates. To date, the CIF collections have been materially less than projected in the feasibility study that supported the project. Placing such a significant financial burden on the community and the PAWSD rate payers based on a "policy decision" by the PAWSD Board may constitute gross negligence.
6. It appears that the original projections used to establish the feasibility of the Dry Gulch project used excessively aggressive growth numbers and significantly underestimated project costs. Please revise the projections to reflect the current population growth forecasts and estimated construction and other costs used in the Dry Gulch Feasibility Study that was used to support the CWCB loan application in 2007. The recent Colorado Supreme Court decision supports our contention that population estimates used in PAWSD projections and forecasts were unreasonably aggressive. We would recommend the State Demographer's projections.
7. Please provide copies of the contracts or agreements including but not limited to all costs with Harris Water Engineering and MWH for following studies/reports: (1)

Appraisal Report to Evaluate Future Raw Water Demands and Water Supply Alternative Plans (Harris Water Engineering, March 2003), (2) Harris Engineering Dry Gulch Reservoir Feasibility Study for the CWCB Loan Application dated August 2007 and, (3) Dry Gulch Reservoir and San Juan Diversion Projects Conceptual Level Opinion of Probable Costs prepared by MWH dated March 2009. We are particularly interested in understanding the specifics of the request made by PAWSD to the service providers and in the explanations of the dramatic differences in cost estimates from one report to the next.

8. Bad debts were listed in the 2008 financials as \$169,735 and \$ 0 for 2009. What is the reason for this change?
9. 'WIP' was shown in the original 2009 budget but was moved to 2010 in the 'amended budget' in the amount of \$6,000,000. Why? What was the source of the \$6,000,000? There is also an anticipated \$6,500,000 loan in the 2010 budget. What is that for and who will be lending that money? What are the terms of the loan? Will it be a revenue bond, not subject to ratepayer/taxpayer vote and approval?
10. There has been substantial revenue bond debt incurred over the past several years. The County has a concern because the PAWSD debt load is higher than the schools, town and county combined or over \$5,000 for every customer of PAWSD. What are the principal amounts, interest rates, and terms of revenue obligation and general obligation debt issued since 2000, by year? What is planned for 2010? What is the current principal amount of voter-authorized but unissued debt? Please provide a copy of the official statement or other disclosure document for every currently-outstanding issue of debt, including revenue bonds.
11. Please provide a copy of any notification provided by the District pursuant to Section 32-1-202(2)(b), C.R.S.
12. Please provide a copy of any resolution(s) or motion(s) that created all enterprises of the District, if any. What section of the Service Plan is the District relying upon for the authorization to create and operate an enterprise, if it has done so?
13. The EPS impact fee report and subsequent meeting with Andy Knudsen indicated that if development fees are too high, economic impacts will be felt. In communities with fees less than \$20,000, new building permits fell 55% from 2006 to 2009. When those fees were in excess than \$20,000, permits fell 73%. Archuleta County building permits have declined by 85%. Does the District believe that there is a correlation between excessive impact fees and economic activity? Please provide a summary of the PAWSD tap fees and collection charges per tap equivalent since 2000, including total annual collections for each category of those fees.
14. Please provide a copy of the rate study that was used to determine the District's current tap fees. How do the findings of that report fit within the limits of the Service Plan?

15. Where in the current Service Plan is there authorization for the Dry Gulch Reservoir?
16. What is the currently planned capacity of the Dry Gulch Reservoir?
17. What portion of the capacity of the Dry Gulch Reservoir is applied to 'drought planning' (in acre feet)? What assumptions were used to determine the capacity needed for drought planning? Please provide this explanation in the representations made in the Appraisal Report to Evaluate Future Raw Water Demands and Water Supply Alternative Plans (Harris Water Engineering, March 2003).
18. Have job losses, student losses and retail sales declines impacted your planning process in terms of required system capacities and economic projections? If so, what adjustments have you made?
19. How much will the Snowball improvement cost, what is its capacity, and where will the funding for the improvement come from?
20. The District's Adjusted Net Revenue has been on the decline while debt service is increasing. Is the District forecasting a gap between revenues and debt service, and if so, how does the District intend to close that gap?
21. In 2009, the AEDA, Town and County voted to lower their impact fees to help create or support existing jobs. The combined vote of these entities was 20 to 1. Why was the PAWSD Board unwilling to join in this effort?
22. Given the substantial changes in the District since the Service Plan was written, what is the District Board's position concerning requesting an amendment to the Service Plan due to differences between the original population projections and the current population and the annual amounts projected for 'Resource Fees' and the actual amounts collected in 2009?
23. What legal fees were paid by the District on the recent court actions related to the Dry Gulch Project? Where did the funds to pay these legal fees come from?
24. By the PAWSD's on admission, unaccountable losses of water represent as much as 20% of its annual volume. What are the reasons for this high loss rate and what actions are being taken to lower the loss? Please provide an analysis of where the losses are occurring and a copy of the action plan in place to deal with this issue. Please specify the deadlines and responsibility for action steps in the plan. Please provide the name of the senior executive whose responsibility it is for dealing with this issue. Please also provide a copy of the reporting that is required by the Board from the staff of PAWSD related to this issue.
25. Please furnish any other documents that may provide insight into the District's compliance with its Service Plan.


PAWSD
March 8, 2010
Page 6 of 6

The Board of County Commissioners will expect your annual report on or before April 30, 2010, at which time the Commissioners will schedule the matter for a public meeting.

Your prompt attention to this matter is appreciated.

Sincerely,
Archuleta County Board of County Commissioners


Clifford A. Lucero


Robert C. Moomaw


John A. Ranson